Appln No. 09/775,677
Amdt date April 27, 2006
Reply to Office action of December 27, 2005

REMARKS/ARGUMENTS

This amendment is submitted in response to the Office action mailed December 27, 2005. Claims 22, 25-27, 30, 37, 38, 40, 74 and 86 have been amended. Claims 25-27, 32-36, 74 and 89 are withdrawn. Accordingly, claims 14-17, 22, 30, 37-40 and 86-88 are currently pending. Applicant acknowledges with appreciation that claims 14-17 are allowed.

On April 6, 2006, a personal interview was conducted with Examiner Urmi Chattopadhyay. During the interview, the withdrawal of claim 89 was discussed. The undersigned stated that the device shown in Figs. 19 and 20 can be biased to the second shape and that the allowed claims 14-17, directed to the device of Figs. 19 and 20, included a claim that recites a memory material used as a stent material (claim 17). The Examiner agreed that claim 89 would no longer be withdrawn form consideration.

Independent claims 22, 38 and 40 were also discussed. In particular, the undersigned suggested that additional structural detail could be added to independent claims 22, 38 and 40 to recite that, in at least one of the first configuration and the second configuration, the proximal and distal ends of the elongate body have a greater cross-sectional profile than a central section of the elongate body. The Examiner indicated that such an amendment may be sufficient to overcome the rejection based on Imran and Orth. No agreement was reached pending submission and review of the amendment. Applicant notes that after reviewing the proposal more closely after the interview, it was recognized that further amendment was needed to the claims to provide antecedent basis for a second configuration and a third configuration, i.e., a first **delivery** configuration, a second **fixed** configuration and a third **remodeling** configuration.

A proposed amendment was also discussed that would require the elongate body to be adapted to close a gap in the mitral valve and whether the forces acting on the coronary sinus by the cited prior art stents would be capable of performing this function. Prior art stents that are expanded beyond the diameter of the vessel in which it is implanted and ratcheting stents that maintain their expanded diameters were mentioned by the Examiner. The undersigned wishes to thank the Examiner for the time and attention devoted to the interview.

Appln No. 09/775,677
Amdt date April 27, 2006
Reply to Office action of December 27, 2005

On page 2 of the Office action, the Examiner states that claim 89 is withdrawn because it is directed to non-elected species, and the elected embodiment (Species 9, Figs. 19 and 20) does not include an elongate body that is "biased" to the second shape. Applicant respectfully disagrees.

The device shown in Figs. 19 and 20 can be biased to the second shape. Allowed claims 14-17, directed to the device of Figs. 19 and 20, include a claim that recites a memory material used as stent material (claim 17). Accordingly, in one embodiment, the elongate body shown in Fig. 19, when made of a memory material as recited in claim 17, is biased to the shape shown in Fig. 20. This is similar to the biased movement of the elongate bodies shown in Species 1 and 2 (see, e.g., page 13, lines 6-10 and pages 16, lines 16-21 of the application). Applicant respectfully requests that claim 89 be examined as properly directed to the elected species.

On pages 2-3 of the Office action, claim 40 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As suggested by the Examiner, claim 40 has been amended to change the words "the vessel" to -- the body space --.

On pages 3-5 of the Office action, claims 22, 30, 37-40 and 86-88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imran in view of Orth.

In the Examiner's Response to Arguments on page 6 of the Office action, the Examiner refers to applicant's argument that neither Imran nor Orth teach or suggest that the stent is adapted "after it is fixed to the coronary sinus" to remodel a mitral valve annulus adjacent to the coronary sinus. The Examiner then states that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art.

In accordance with the Examiner's suggestion, claim 22 has been amended to recite a structural difference between the claimed invention and the prior art. In particular, independent claims 22, 38, and 40 each recite that "in at least one of the second configuration and the third configuration, the proximal and distal ends of the elongate body have a greater cross-sectional profile than a central section of the elongate body." Support for this recitation can be found in

Fig. 19 wherein the proximal and distal stent sections 30, 31 have a greater cross-sectional profile than the central stent section 42 located between the proximal and distal stent sections. Fig. 18 shows a similarly shaped device wherein the wires 35-40 shown in Figs. 15-17 are confined in a plastic sheath or a plastic wire spiral 41. (See page 21, lines 13-23 of the application) Applicant further notes that Figs. 12-13 show another elongate body wherein stent sections 23, 25 have a greater cross-sectional shape relative to the vessel than wires 26, 27 of the elongate body located between the stent sections. (See page 16, line 22 - page 17, line 13). Claims 22, 38 and 40 have also been amended to provide antecedent basis for the second and third configurations.

Imran fails to teach or suggest a proximal end and a distal end having a greater cross-sectional shape relative to the vessel than a central section of the elongate body. In particular, at col. 1, lines 10-17 of Imran, it states that the stents are made up of various arrangements of struts in a "generally cylindrical shape, expandable from a smaller diameter roughly cylindrical configuration . . . to a larger diameter roughly cylindrical configuration." Again at col. 3, lines 15-30 the Imran stent includes "a generally cylindrical member 11 having an outside diameter represented by the dimension D." There is no description in Imran that, in either the second configuration or the third configuration, the stent has "proximal and distal ends of the elongate body [that] have a greater cross-sectional profile than a central section of the elongate body" as recited in claims 22, 38 and 40. Accordingly, claims 22, 38, and 40 are believed to be patentable.

Claims 30, 37 and 86-88 depend from claim 22 and claim 39 depends from claim 38. Accordingly, because these claims depend from allowable independent claims and because they contain additional limitations further distinguishing these claims from the cited references when considered as a whole, these claims are also believed to be patentable.

Applicant also respectfully requests that claims 25-27, 32-36, and 74 which were withdrawn from further consideration as being drawn to a non-elected species, now be considered for further examinations on the merits. Since these claims depend on allowable independent claims and because they contain additional limitations further distinguishing these

claims from the cited art when considered as a whole, these claims are also believed to be patentable. These claims have been amended to recite antecedent basis.

In view of the above, applicant respectfully requests reconsideration of the application and allowance of claims 14-17, 22, 25-27, 30, 32-40, 74 and 86-89.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By _____
Mark Garscia
Reg. No. 31,953
626/795-9900

MEG/cks

CKS PAS674269.2-*-04/27/06 9:44 AM